

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link Up)	WC Docket No. 03-109

COMMENTS OF EMERIOS

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Summary

Emerios, a division of VMBC Corporation, is a third-party provider of eligibility and verification functions to eligible telecommunications carriers (“ETCs”) participating in the Federal Communications Commission’s (“FCC” or “Commission”) Lifeline and Link Up program (“Lifeline/Link Up”). In these comments, Emerios addresses the Commission’s proposal to create and implement a database to (1) eliminate duplicate claims for Lifeline/Link Up benefits, (2) determine and verify enrollee eligibility, and (3) process and store annual participant verification information.

Emerios supports the Commission’s efforts to make the system for processing Lifeline/Link Up applications more efficient and effective by establishing a national database. To reduce waste, fraud and abuse in the program without creating excessive burdens on ETCs, consumers, the FCC, or the states, this national database solution must serve the following functions:

- Real-time operation;
- Compliance with FCC requirements for elimination of duplicate benefits;
- Fast and easy beneficiary enrollment;
- Multiple customer engagement channels (*e.g.*, web, fax, interactive voice response);
- Streamlined and automated applicant eligibility determination and annual verification; and
- Streamlined and automated audit procedures.

Emerios recommends a two-phase process, based on Emerios’ extensive expertise and experience in processing Lifeline/Link Up enrollments and verifications, to create and implement a real-time Duplicate Elimination and Eligibility Platform Solution (the “DEEP Solution”). The recommended DEEP Solution, which should be operated by an independent and

neutral administrator, should include all of the real-time components needed to effectively implement and deliver the Lifeline/Link Up program modifications requested by the FCC while ensuring lower costs, better security, and faster response time for all stakeholders in this valuable and successful program. The DEEP Solution should be available to all ETCs, state Lifeline/LinkUp administrators, and the Universal Service Administrative Company.

The first phase of the DEEP Solution should be the creation and implementation of a Duplicate Elimination and Preference Management System (the “DES”) by the administrator. The DES would immediately address the duplicate benefits issue by providing all ETCs with a single, real-time pre-qualification database that verifies whether a household or individual is already receiving a Lifeline/Link Up benefit. Emerios proposes that all ETCs with more than 5,000 Lifeline/Link Up subscribers be required to securely transfer relevant customer data (name, address, phone number, type of service, date of service commencement, last four digits of customer social security number, and date-of-birth) to and integrate with the DES. The DES would also enable low-income consumers receiving duplicate benefits to easily select a carrier under whatever policy is adopted by the Commission.

Emerios has already developed and is currently using a version of the DES. As such, Emerios is confident that the DES it recommends herein can be developed and deployed at a reasonable cost very rapidly.

In the second phase of the DEEP Solution, Emerios recommends that the administrator develop a real-time automated program Eligibility Determination and Verification System (the “EVS”) and integrate it with the DES. The EVS would enable ETCs integrated with the DES database to get instant access to an automated rules engine that would outline all state document and proof requirements for program eligibility. States and state program

administrators would also be given access to the EVS. The EVS should be designed so that states that have a centralized database that verifies the eligibility of low-income consumers (*e.g.*, Florida) could easily integrate with the EVS. ETCs would be able to access these state databases through the DEEP Solution in real-time to determine if new applicants are eligible for program benefits. ETCs could also use these databases through the DEEP Solution to confirm a customer's ongoing eligibility for the Lifeline/Link Up program and satisfy the FCC's verification requirements.

If the DEEP Solution is adopted by the FCC, all ETCs would be aggregated into the DES, and states would need to integrate their eligibility databases with only a single interface, not hundreds. As such, states should have an incentive to support the DEEP Solution by developing their own eligibility databases for integration into the EVS, as the DEEP Solution will significantly lower the cost of integration and increase the security of sensitive customer information.

Emerios has already developed and deployed a version of the EVS where real-time enrollment eligibility is determined in an automated enrollment process. Emerios' platform is also integrated with Florida's DCF eligibility databases, and the system is operating as planned. Consequently, Emerios is confident that the Commission's proposal for a national database can be successful and can be implemented promptly at a reasonable cost.

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COMMENTS OF EMERIOS

I. Introduction

Emerios, a division of VMBC Corporation (“Emerios”), by its attorneys, hereby submits these comments on the Notice of Proposed Rulemaking issued by the Federal Communications Commission (“FCC” or “Commission”) in the proceeding captioned above.¹ In this proceeding, the Commission is considering various reforms to its Lifeline and Link Up program (“Lifeline/Link Up”). Among other things, the Commission is considering the establishment of a database to determine initial eligibility for program participation, verify eligibility on an on-going basis, and identify and resolve multiple claims for support from a single residential address. Emerios is a third-party provider of eligibility and verification functions to eligible telecommunications carriers (“ETCs”) participating in Lifeline/Link Up. As such, Emerios has a direct interest in this proceeding.

As the Commission notes at the beginning of its Notice, the Lifeline/Link Up program is a critical part of its universal service mission, addressing the important concern of

¹ FCC 11-32, rel. Mar. 4, 2011 (“Notice”).

ensuring low-income individuals have access to communications services.² Statistics show that in the past 24 months, more low-income individuals are taking advantage of the program, with over 10.5 million households participating in 2010 – an increase of over 30 percent from 2008.³ This figure represents approximately 61.7 percent of U.S. households considered eligible for the program.⁴

As the Lifeline/Link Up program has expanded, however, deficiencies in its administration have been exposed. Specifically, the Lifeline/Link Up program’s approval process for eligibility and verification were designed when only wireline carriers were providing the service. As such, the issue of duplicate services within a household was not a concern. But with the advent of substantial mobile phone activation within the program, a “duplicates” problem has developed and grown more serious. Consequently, there is a pressing need to develop a database to detect and then address duplicate benefits at a single household provided by competing carriers. In addition, there are many other questions about the program’s administration, especially surrounding concerns of “waste, fraud, and abuse,”⁵ which call out for a national database solution.

Emerios agrees with the Commission that many of these problems can be addressed through the creation of “a national database to verify consumer eligibility, track verification and check for duplicates to ensure greater program accountability.”⁶ To gain immediate and long-term savings and other benefits, Emerios recommends a two-phase process to develop a national database – the Duplicate Elimination and Eligibility Platform Solution (the

² Notice, ¶ 1.

³ *2010 Annual Report*, Universal Service Administrative Company, at 12.

⁴ *Id.*

⁵ Notice, ¶ 1.

⁶ *Id.*, ¶ 207.

“DEEP Solution”) -- which would quickly eliminate duplication in the Lifeline/Link Up program. Phase I is the launch of a Duplicate Elimination and Preference Management System (“DES”) which would eliminate all duplicate benefit instances and install a preference management system. Phase II is the integration of the DES into an automated Program Eligibility Determination and Verification System (“EVS”) that would use automated processes to determine eligibility for Lifeline/Link Up enrollees following each state’s documentation requirements. In these comments, Emerios provides detail on the requirements for its two-phase proposal and discusses how each phase can be best implemented.

II. Emerios

Emerios is a U.S.-based, technology-driven business process outsourcer (“BPO”) that specializes in streamlining complex business processes. Emerios has developed an integrated multi-channel enrollment platform that enables multiple clients to streamline the process of complex enrollments and verifications. The Emerios Acquisition & Response Services™ database and response services platform (“EARS”) is a state-of-the-art qualification, enrollment and verification program that is used by ETCs to ensure compliance with all federal and state Lifeline/Link Up program guidelines. EARS allows Emerios clients to:

- Streamline complicated processes that previously had to be done manually;
- Increase automation and accuracy;
- Reduce call center hours;
- Reduce the cost of fulfillment while dramatically raising customer service scores; and
- Manage customer requests via web, phone, fax, mail, interactive voice response (“IVR”), text or email, ensuring that consumers can get the answers they need in the form they want.

In its first 18 months, EARS qualified and enrolled over 4 million new low-income consumers. Emerios expects that EARS will pass the 5 million cumulative enrollment mark this year.

Emerios continues to develop and improve qualification, enrollment, and verification services for its ETC clients. Emerios continues to enhance EARS to provide additional value through rapid integration to state eligibility databases; real-time, right-party, right-address verifications; and, program eligibility services.

III. To Reduce Waste, Fraud and Abuse Within Lifeline/Link Up, the Commission Should Establish a Third-Party-Provided, Centrally-Administered Duplicate Elimination and Eligibility Platform.

A. Eliminating Duplicate Claims and Excluding Ineligible Participants Will Strengthen the Lifeline/Link Up Program and Benefit the Public.

As Chairman Genachowski observed in his statement accompanying the Notice, “every Lifeline/Link Up dollar that today gets spent on duplicate service, ineligible participants, or other waste or inefficiencies is a dollar that could go to helping more low-income Americans connect.”⁷ By ensuring that only eligible consumers participate in Lifeline/Link Up, the annual verification requirements are effective, and duplicate services to households are eliminated, the Commission can make the program more effective and efficient, and use these savings to further address the voice and broadband needs of low-income consumers and thus advance its universal service mission.⁸

Comments filed in the dockets captioned above show strong support for use of a centrally-administered database to determine and verify Lifeline/Link Up eligibility and identify

⁷ Notice at 131.

⁸ See Statement of Commission Mignon L. Clyburn, Notice at 137.

and resolve duplicate claims for support.⁹ As the Joint Board recognized in its *2010 Recommended Decision*, a central database could eliminate fraudulent and duplicate claims for Lifeline/Link Up support because ETCs would no longer rely solely on the applicant's self-certification of eligibility.¹⁰ Importantly, such a database would also facilitate the delivery of benefits to eligible consumers. A database that indicates whether an applicant for enrollment is eligible for Lifeline/Link Up support and already receives support from another ETC would simplify the enrollment process for those households applying for benefits, expedite the ability of ETCs to enroll qualified households, and enable ETCs to promptly commence delivery of Lifeline/Link Up-supported services to those qualified households.

Emerios agrees with the FCC and the Joint Board that establishing and implementing a real-time, fully automated eligibility and verification system is necessary. Such an effort would require a major commitment of time and impose significant costs on the FCC, federal and state public assistance agencies, the ETCs, and other industry participants. Thus, Emerios proposes a fully automated eligibility and verification system where the framework of the solution would be put in place promptly but where the implementation would occur over time.

⁹ See, e.g., Ex Parte Notice of United States Telecom Association *et al.* in WC Docket No. 03-109, Feb. 15, 2011, at 3; Comments of TracFone Wireless in WC Docket No. 03-109, July 30, 2010, at 4; Comments of Verizon and Verizon Wireless in WC Docket No. 03-109, July 15, 2010, at 6.

¹⁰ See *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598, 15612 (Jt. Bd. 2010 (*2010 Recommended Decision*)).

B. A Two-Phase Solution Would Provide Near-Term Benefits and Set the Stage For Fully Automated Eligibility.

Emerios' DEEP Solution would provide immediate benefits by quickly addressing the harm done to the universal service fund by the reimbursement of ETCs for duplicate claims. Under Emerios' recommendation, the Commission would first move quickly to implement Phase I -- the DES -- on the basis of existing rules and policies, including the existing single line per residence policy.¹¹ Phase I would entail (1) the creation and management of a real-time benefit pre-qualification database that determines household and right party information; (2) the development of a secure, independent and centralized hub that is connected real-time to the pre-qualification database and enables the ETCs to interface with it; and, (3) the creation of a customer preference management system that enables program beneficiaries to easily select the carrier of their choice.

The DES would identify duplicate benefits claims and enable a third-party administrator to resolve them via a simple, carrier-neutral process which the Commission would establish. It would prevent duplicate benefit claims going-forward, as ETCs would be able to dip into the pre-qualification database to determine whether a new application for service is for a household for which Lifeline/Link Up benefits are already being provided. The DES would also allow a low-income consumer to easily select a new carrier if they wish to avail themselves of a competing service. Emerios has shown in practice that it is feasible to develop and implement a

¹¹ Emerios suggests implementing Phase I of the DEEP Solution on the basis of the existing single line per residence policy simply to enable rapid implementation of Phase I. However, Emerios recognizes that ETCs and other industry participants have concerns about the scope of the single line per residence rule (such as the extent to which the rule applies to group living facilities) and its appropriateness in today's mobile environment. Should the Commission move quickly to address these concerns, Emerios recommends that the Commission implement Phase I on the basis of its rules and policies as modified.

duplicate elimination system of this type both expeditiously (within six months of contract) and at reasonable cost.

Phase II of the DEEP Solution – the EVS -- would automate and streamline the eligibility and verification process. Phase II would build on the structure and systems developed in Phase I and would be rolled-out on a state-by-state basis. Phase II could be implemented immediately in the 34 self-certification jurisdictions¹² and in states in which access to real-time program participation is available. Shortly thereafter, integration could occur in those states that are currently in the process of completing similar access to their eligibility information. State public assistance agencies could integrate their operations into the EVS as they become capable of doing so. Implementation of Phase II should be optional for states that have database information available to ETCs online for eligibility qualification and annual verification purposes.

Emerios's DEEP Solution recommendation emphasizes the need to maximize flexibility, lower integration costs, and ensure the security and privacy of consumer data, thereby achieving the greatest benefit without unduly burdening either the ETCs or the state public assistance agencies. Details regarding Emerios' recommendation are provided below.

C. Details of Phase I – Identification and Resolution of Duplicate Claims.

The goal of Phase I of the DEEP Solution is to identify and address duplicate claims for benefits and resolve customer preferences in real-time. Phase I should be structured

¹² The self-certification jurisdictions are Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Maryland, Maine, Michigan, Mississippi, North Carolina, North Dakota, New Hampshire, New Jersey, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin, West Virginia, American Samoa, Puerto Rico, the Northern Mariana Islands, and the District of Columbia.

so that the cost of implementation is minimized and the speed of implementation is maximized. For maximum benefit, Phase I should have the following structure and elements.

1. Single nationwide system.

The DES should be a nationwide, centrally-administered system. A nationwide system offers numerous benefits over individual state systems for identifying, eliminating, and preventing duplicate claims for Lifeline/Link Up benefits.

First, the cost of establishing and implementing a nationwide system would be dramatically lower, as the incremental cost of a larger, single, real-time pre-qualification system would be much less than the cost of multiple smaller state systems. Emerios estimates that creation of a national pre-qualification system will cost only 30 percent more than the creation of a system for a single state with a large number of Lifeline/Link Up benefit recipients. The creation of individual systems for all 50 states will likely be 15-20 times more expensive than the creation of a single national system. Furthermore, a single nationwide duplicate elimination system provides significant efficiencies for ETCs that must train staff on use of the system.

Second, a single nationwide DES should be deployed faster than multiple state systems and should be easier to use. That is because ETCs would only need to interface with one system, and the physical infrastructure, connections and all related components would be limited to a single location.

Third, the security risk associated with a single nationwide system would be much less than the security risk associated with multiple state systems. With one DES, ETCs would be required to link up with fewer interfaces, thereby mitigating opportunities for a security breach.

Some states (*e.g.*, Florida, California, Maryland, Wisconsin and Ohio) have already implemented variations of centralized state pre-qualification databases. In addition, as

noted previously, 34 jurisdictions currently allow for customer self-certification. The DES could easily integrate and process enrollments in these locations. Under Emerios' recommendation, integration of these existing databases into the DEEP Solution would be optional in Phase I.

2. Neutral third-party administrator.

The DES should be administered by a neutral third-party; *i.e.*, the administrator should not be affiliated or aligned with any particular telecommunications industry segment or firm. In addition, to take advantage of the private sector's substantial and rapidly evolving capabilities, a government administrator should not be preferred. Rather, the FCC should oversee the administrator to ensure effectiveness and accountability.

The administrator should have knowledge of the Lifeline/Link Up process, experience with automated real-time database solutions, and multichannel capabilities (such as mail, web, fax, and IVR). Given the complexity of the solution requirements, the sheer number of stakeholders and the critical importance of the program, the administrator should be selected through a competitive bidding process that gives great weight to past performance and firsthand experience with creating an automated solution. Further, given the gravity of the problem, and the fact that a solution exists and can be quickly implemented to eliminate duplicate benefits, speed-to-market should also be a key selection criterion. This will ensure that substantial cost savings can be realized most immediately.

The benefits of having a neutral third-party administer the DES are considerable. Having a single independent source resolve claims of duplicate benefits and preference handling is more efficient and less confusing for customers than having two or more ETCs attempt to resolve the claims on their own. A third-party administrator who is neutral will better ensure that

the choice of Lifeline/Link Up service provider remains in the hands of the program beneficiary and that customer data will be held confidential.

ETCs cannot and should not be expected to address and resolve the problems of duplicate benefits or service preferences through carrier collaboration. Making ETCs responsible for this task imposes responsibilities on ETCs that are fundamentally different from their core functions as telecommunications carriers. Furthermore, requiring collaboration between providers that compete with each other in a particular market raises potential antitrust problems and privacy concerns.

3. Minimum system and security requirements.

The DEEP Solution should be a turnkey solution that incorporates all required hardware, software, and service elements. The DES should include the following processing steps, at a minimum, to initially populate the database and determine existing duplicates:

- Transfer of data on program beneficiaries from Universal Service Administrative Company (“USAC”) and/or the ETCs to the administrator;
- Data processing to identify dual-benefit households and individuals;
- Outreach to dual-benefit households and individuals with neutral menu of ETC options;
- Receipt of ETC selection from program beneficiary (multi-channel) and processing of decision;
- Notification to ETC of selection or rejection;
- Report production; and
- Record retention for audit purposes.

The DES should also include the following additional processing steps for ongoing database maintenance:

- Real-time transfer of customer data on program applicants and de-enrolled customers from ETCs to the administrator;

- Real-time notification of applicant status to the ETC;
- Preference management interface that aids end users and ETCs in changing service provider;
- Receipt of ETC confirmation of service provision; and
- Billing/cost allocation for use of DEEP Solution.

Emerios submits that it is essential that the DES function in real-time to ensure that the database is kept accurate and that new program participants can enroll for benefits or change carriers without undue delays. This means that the DES should enable – in real-time – the administrator to receive data and update the database, ETCs to access the pre-qualification database online to check for duplicate benefits, and end users to change carriers. Failure to operate in real-time would create significant burdens on ETCs and consumers, as it would necessitate expensive and time-consuming outreach efforts to resolve conflicts. A real-time solution would enable resolution while the consumer is on the phone or on the website.

Further, the DES needs to have a high level of usability, including capacity, response speed, and recognition accuracy. Most notably, it must retain the flexibility and speed needed by ETCs to continue their enrollments without burdensome complexities or delays. The system must integrate multiple response channels so that program beneficiaries can express their ETC preferences via web, IVR, mail, or fax and the ETCs can leverage lower cost channels of communication where possible so as to reduce their operating expenses.

The duplicate elimination system should standardize all address data to the U.S. Postal Service (“USPS”) Address Standardization and Verification – Coding Accuracy Support System (“CASS”). The system should integrate a CASS process of address matching and address verification against the most current USPS postal address data.

The DES also needs access to right-party information to resolve issues concerning multiple eligible applicants at a single address, and thus it should integrate into a live personal identification database providing that information in real-time.

Finally, the DES should meet certain minimum requirements for security based on the type of information stored. Access to the system should be restricted to specified parties using secure connections, and all sensitive data should be encrypted. The DES should be accessible at two or more geographically and network-topologically diverse locations and protected from network intrusions that threaten reliable and secure operations.

4. Information to be collected for database and customer authentication.

In Phase I, only the minimum information necessary to establish the identity and status of a Lifeline/Link Up customer would be collected and stored in the DES. Emerios recommends that the administrator collect and retain, with respect to each program beneficiary, the customer's first and last name, full USPS address, phone number, name of carrier, type of service (*e.g.*, wireline, wireless, broadband), and date of service commencement.

In addition, the administrator will need to collect and retain information to authenticate the customer. Emerios suggests that the customer's date-of-birth and the last four digits of the customer's social security number be used to authenticate the customer. Emerios notes that this is the information that Florida requires ETCs to use to determine, via a real-time secure link, whether a prospective customer is participating in a Florida DCF public assistance program and thus is eligible for Lifeline/Link Up assistance.¹³

¹³ See Comments of Florida Public Service Commission in WC Docket No. 03-109, July 15, 2011, at 6-7.

5. Requirements regarding populating and updating the DES.

All ETCs should be required to provide information on their customers to the administrator and integrate with the DES. The only exception should be very small ETCs, such as those with fewer than 5000 Lifeline/Link Up customers or those who, when taken as a group, provide service to less than 3 percent of all current Lifeline/Link Up program participants. Even then, some smaller ETCs may not have the immediate ability to interface with the DES and populate the database. To achieve the greatest benefit in the shortest timeframe while not overly burdening the smaller ETCs, who may be less technically adept, the Commission could require that larger ETCs transfer their customer data to and integrate with the DES within a shorter period of time.

Larger ETCs could leverage application program interfaces or EDI transmission to populate the DES most cost effectively. The administrator should provide data translation algorithms to normalize the data fields to reduce the burden on ETCs transferring data from disparate CRM or billing systems. The administrator should establish an administrative portal for easy data entry into the DES for small ETCs.

An ETC that has populated the DES with information on its customers should be obligated to keep its information in the database current by uploading any change in status of any of its customers – most importantly, customers who have de-enrolled or changed address. This could be done on a daily basis in a batch process; however, Emerios recommends that it be done in real-time. If ETCs record their provision of Lifeline/Link Up service to a customer in real-time, the risk of duplicate claims will be radically reduced going forward.

6. Initial database cleansing must be a FCC-sanctioned, carrier-neutral duplication resolution process.

Once the DES is populated and all dual-benefit households are identified, the administrator would perform a conversion process sanctioned by the Commission to notify current Lifeline/Link Up households of the duplicate benefit being received. The administrator would also manage the conversion process to the beneficiary's preferred ETC.

Emerios has no preference as to the specific process for resolving duplicates. However, the selected duplicate resolution process must be mandated by the FCC, well-documented, and auditable. Also, the process must be competitively-neutral, as well as fair and equitable to all ETCs. For example, the process could specify that a duplicate household must be provided with a carrier-neutral notification containing a list of their current Lifeline/Link Up providers, a standard presentation on each program's specifics, and the process for choosing which service to receive in the future, including the timetable for response.

The duplicate resolution process should be consumer-friendly. To that end, the administrator should reach out to program beneficiaries through multiple channels (*e.g.*, direct mail, web, IVR, outbound calls to consumer, automated voice or text messaging) to ensure that customers are contacted and their preferences for a service provider are obtained. The DES should allow a low-income consumer to easily select a new carrier if he/she wishes to avail themselves of a competing service. This feature not only delivers a superior program experience for the consumer but also ensures the ongoing competitive environment necessary to deliver the best Lifeline/Link Up product to the marketplace.

7. Reporting and communication of results to ETCs.

The DES administrator should establish a secure, web-enabled reporting interface with the ETCs that have populated the DES to advise the ETCs on the customers that will be retained or released. Information such as the customer's answers to all duplicate response questions, the response channel utilized, and change date/time should be provided by the administrator to the ETCs.

8. Process for preventing new double benefits.

Once customer data from the major ETCs has been loaded and standardized in the DES, a mandatory process should be put into place to prevent new duplicate claims. Specifically, the DES should permit ETCs to dip into the database through a live interaction to determine whether a new application for service is for a household to which Lifeline/Link Up benefits are already provided. Pre-qualification should be a requirement for Lifeline/Link Up services enrollment.

D. Costs, Cost Recovery, and Timetable for Phase I.

Based on Emerios' experience building duplicate elimination systems for ETCs, it is confident that the administrator chosen for the nationwide duplicate elimination system can get the pre-qualification database up, running, and ready for population within 90 days of contract. Within six months of entering into the contract, the DES should be populated by the major ETCs, and the process of eliminating and preventing duplicate claims can begin.

Emerios estimates the market budget and planning costs for Phase I at approximately \$7.5-10 million. This estimate excludes the costs to communicate with program beneficiaries and any ongoing fee to administer the database. Various options exist for covering the costs of Phase I, including funding through the federal Universal Service Fund, funding by

the ETCs, or some hybrid thereof. Emerios has no views on how costs should be recovered or from whom but urges the Commission to consider all possible options.

E. Outline of Phase II – Eligibility Determination and Verification System.

Phase II of the DEEP Solution builds on the DES established in Phase I. In Phase II, the DEEP Solution administrator would develop and implement the EVS. The EVS would include the information necessary to determine that an applicant for Lifeline/Link Up service is eligible to receive benefits. As currently contemplated, Phase II does not require a change in Lifeline/Link Up eligibility requirements or the manner in which these requirements are determined.

In Phase II, states would integrate their state qualification databases with the EVS and allow the ETCs to access their databases through the EVS in real-time. For states such as Florida that have DCF qualification information already available to ETCs online, integration with the EVS would be very easy. States such as Florida would benefit greatly by integrating their eligibility database into a single EVS through which all ETCs have access. The advantage of this approach is that a Phase II roll-out allows states to create their eligibility databases as they see fit. The cost of integration with the ETCs would be greatly reduced, as there is already a DES populated by ETCs ready to link into the state eligibility databases, so states would not need to provide access to each ETC individually.

The EVS would also be used by ETCs to verify on an ongoing basis that their customers remain eligible for Lifeline/Link Up program participation. ETCs would access the appropriate databases through the EVS as determined by the Commission. Emerios suggests eliminating the need for the consumer to verify eligibility in the states that provide their data online through the EVS. Eliminating the requirement to reach out to customers would

dramatically reduce the costs associated with annual verifications and audits. The costs associated with audits would also be reduced by the availability of an auditable trail and automated look-up of ongoing customer eligibility.

Phase II and the creation of the EVS also have other advantages:

- The EVS could integrate directly with any program administrator hired by the states.
- Given that the DES will have already dealt with any duplicate benefit issues, the costs for the states to approve a Lifeline/Link Up benefit will drop dramatically.
- The EVS could automate the process by which customers qualify for benefits in the 34 self-certification jurisdictions referred to earlier.
- The EVS could give multiple ETCs access to a web-based tool that would gather eligibility requirements and e-signature directly from program applicants.

In order for the EVS to maximize benefits to consumers and ETCs as well as to reduce operating expenses, use of e-signature should be allowed on multiple customer engagement channels. Specifically, the Commission should allow for use of e-signature on the following channels: (1) IVR; (2) phone, through the recording of a confirmation; (3) web, through the click on a check box; and (4) mobile, through a double opt-in text response process.

A state-by-state rollout of Phase II is recommended. As noted previously, the EVS could be implemented immediately in states with online data access and in the jurisdictions that allow for self-certification. Other jurisdictions would integrate with the EVS as they become capable of doing so.

IV. The Collection and Release of Customer Information as Proposed is Not Barred by the Privacy Provisions of the Cable Communications Policy Act of 1984, Section 222 of the Communications Act, as Amended, or the Stored Communications Act.

In the Notice, the Commission notes that the privacy-based limitations on the government's access to customer information in the Cable Communications Policy Act of 1984 (the "Cable Act"),¹⁴ Section 222 of the Communications Act of 1934, as amended (the "Act"),¹⁵ and the Stored Communications Act ("SCA"),¹⁶ may be implicated by the collection of customer data in a national database.¹⁷ The customer information that would be collected in deploying the DEEP Solution is sufficiently limited such that the restrictions in these laws on the storage and disclosure of customer data would not be triggered.

The Cable Act restricts government access to "personally identifiable information concerning a cable subscriber."¹⁸ However, these restrictions apply only with respect to records relating to ordinary cable services and do not restrict government access to records relating to Internet access or telephone service provided by a cable operator.¹⁹ Thus, the Cable Act does not restrict the collection or disclosure of customer data with respect to Lifeline/Link Up beneficiaries.

¹⁴ 47 U.S.C. § 551 *et seq.*

¹⁵ 47 U.S.C. § 222.

¹⁶ 18 U.S.C. § 2701 *et seq.*

¹⁷ Notice, ¶ 220. The Commission also observes that state law governing the privacy of consumer data may limit the administrator's access to consumer information as well. Notice, ¶ 221. Emerios believes that the issue of whether state privacy laws restrict the storage and disclosure of customer data in a national database is best addressed by the states. In any event, the implementation of the DEEP Solution can be structured to afford state governments the time and opportunity to address any state privacy law concerns.

¹⁸ 47 U.S.C. § 551(h).

¹⁹ See 47 U.S.C. § 551(c)(2)(D); U.S. Department of Justice, *Searching and Seizing Computers and Obtaining Electronic Evidence in Criminal Investigations*, July 2002, 141-142, available at <http://www.justice.gov/criminal/cybercrime/searching.html> (last visited Apr. 21, 2011) (*DOJ Manual*).

Similarly, Section 222 of the Act does not create issues here. Section 222 of the Act restricts a carrier's disclosure of customer proprietary network information ("CPNI"). Emerios submits that most of the information to be collected and disclosed is not CPNI and thus is not subject to the CPNI disclosure restrictions.²⁰ To the extent any of the information collected qualifies as CPNI (*e.g.*, type of service and date of service commencement), the carrier's disclosure of this information to the DEEP administrator is permissible under the exceptions in Section 222(d)(1) (carrier can disclose CPNI without customer approval to initiate, render, bill, and collect for telecommunications services) or Section 222(d)(2) (carrier can disclose CPNI without customer approval to protect the rights or property of the carrier, or to protect users and other carriers from the fraudulent or illegal use of or subscription to services).²¹

Finally, Emerios contends that the SCA does not restrict the storage and release of information regarding Lifeline/Link Up beneficiaries to the DEEP administrator. The SCA creates a set of Fourth Amendment-like privacy protections for electronic information, as it (1) creates limits on the government's ability to compel service providers to disclose information in their possession about their customers, and (2) places limits on the ability of service providers to

²⁰ CPNI is defined in Section 222(h) of the Act as "(A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information." 47 U.S.C. § 222(h)(1). "Subscriber list information" means information "(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and (B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format." 47 U.S.C. § 222(h)(3).

²¹ 47 U.S.C. § 222(d)(1), (2).

voluntarily disclose information about their customers to the government.²² By its terms, the SCA does not restrict a service provider's disclosure of non-content information (including but not limited to information regarding the identity of a subscriber, his relationship with his service provider, and his basic session connection records) to non-government entities.²³ As such, to the extent that the DEEP administrator is viewed as a non-government entity, the SCA does not bar the disclosure of account information by the ETC to the DEEP administrator.

But even if the DEEP administrator is considered a government entity, disclosure of information concerning Lifeline/Link Up beneficiaries by ETCs is permissible under the SCA. The SCA permits the voluntary disclosure of non-content customer records by a service provider to a government entity when the disclosure is made with the lawful consent of the customer,²⁴ or when the disclosure is incident to the rendition of service or to the protection of the rights or property of the provider of that service.²⁵ Considering (1) the limited nature of the information being disclosed, (2) the subscriber's limited expectation of privacy in the information,²⁶ and (3) the limited purpose for the disclosure (*i.e.*, to confirm the qualifications of a recipient of a government benefit that the recipient voluntarily requested and accepted), it is not unreasonable to view the Lifeline/Link Up beneficiary as having consented to the disclosure for these purposes.

²² See Orin S. Kerr, *A User's Guide to the Stored Communications Act – and a Legislator's Guide to Amending it*, GEORGE WASHINGTON LAW REVIEW, Volume 72, No. 6, Aug. 2004, available at <http://ssrn.com/abstract=421860> (last visited Apr. 22, 2011).

²³ See 18 U.S.C. §§ 2702(a)(3), (c)(6).

²⁴ 18 U.S.C. § 2702(c)(2).

²⁵ 18 U.S.C. § 2702(c)(3).

²⁶ Courts have held that no legitimate expectation of privacy exists in subscriber information that is voluntarily conveyed to a phone or internet company. See *U.S. v. Bynum*, 604 F.3d 161, 164 (4th Cir. 2010), citing *Smith v. Maryland*, 442 U.S. 735 (1979).

V. The Commission Can Quickly Begin the Process of Implementing Emerios' Recommended Duplicate Elimination System By Using the Procurement of the Centralized Numbering Directory Mechanism in CG Docket No. 03-123 For Guidance.

In its *June 2008 TRS Order*, the Commission adopted a system for assigning NANP ten-digit telephone numbers to Internet-based TRS users in order to facilitate calls between Internet-based TRS users and callers using the PSTN.²⁷ The Commission determined that a centralized numbering directory mechanism should be employed to map the NANP telephone number assigned to an Internet-based TRS user to an appropriate Internet address or other appropriate endpoint identifier. The Commission further determined that a neutral third-party administrator should build, maintain, and operate the central database.²⁸ The Commission selected the database administrator and required the database administrator to construct the database, work with industry to populate the database, test the functionality of the database, and prepare to support ten-digit number for Internet-based TRS users within slightly more than six (6) months after release of the *June 2008 TRS Order*.²⁹

The procurement process that the Commission adopted in the *June 2008 TRS Order* can provide guidance to the Commission for the procurement of the DES that Emerios advocates herein. Time is of the essence in this proceeding, as it was in the proceeding that culminated in the *June 2008 TRS Order*.³⁰ As the Commission notes in the Notice, recent audit results indicate there is a risk that a significant number of Lifeline/Link Up consumers may be

²⁷ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) ("*June 2008 TRS Order*").

²⁸ See *June 2008 TRS Order* at 11618.

²⁹ See "Commission Awards Contract to Neustar Inc. to Build and Operate Centralized Database for Internet Based Telecommunications Relay Service Numbering System," Public Notice, CG Docket No. 03-123, WC Docket No. 05-196, DA 08-2069, rel. Sept. 10, 2008 (*September 2008 Public Notice*).

³⁰ See *June 2008 TRS Order* at 11618.

unnecessarily and improperly receiving support for more than one service per residential address.³¹ As such, a tight timeline for implementing Phase I is warranted and, as discussed above, entirely feasible.

To that end, Emerios urges the Commission to structure the procurement of the DES as follows.

Selection of parameters for the DES. As noted previously, there is already strong support in the docket for use of a central database to determine and verify eligibility and resolve duplicate claims for support. The Commission should determine the parameters of the DES based on the various proposals made by supporters of the central database in this proceeding.³² Establishing an advisory counsel (as the Commission has done in other proceedings) and waiting for its guidance will add little but delay.

FCC or USAC to conduct procurement process. As discussed previously, the DES administrator should be selected through a competitive bidding process. USAC or the Commission (acting through the Office of the Managing Director with the assistance of the Wireline Competition Bureau and other bureaus and offices as required) should conduct the procurement.³³

Run the procurement process on a tight time schedule. The procurement process should start with the posting of a Sources Sought Announcement on the Government Wide Point of Entry (“FedBizOpps”). The announcement should seek a contractor capable of implementing and operating the DES. In the TRS numbering directory procurement, the Commission posted the associated Sources Sought Announcement (and issued a public notice to this effect) on the

³¹ Notice, ¶ 53.

³² See June 2008 TRS Order at 11611-11620.

³³ See June 2008 TRS Order at 11619.

day after the *June 2008 TRS Order* was released.³⁴ One month later, the Commission posted a Combined Synopsis/Solicitation as a Request for Quotation on *FedBizOpps* and asked for responses within three (3) weeks.³⁵ A contract was awarded one (1) month after that.³⁶ The same timetable should be feasible in this case.

Ensure rapid resolution of all implementation disputes. The Commission should establish, or direct USAC to establish, an escalation procedure for resolving implementation disputes. An escalation procedure should keep the procurement of the DES on track. In the *June 2008 TRS Order*, the Commission directed that the Chief of the Wireline Competition Bureau resolve any implementation dispute that the Office of the Managing Director could not resolve in a reasonable time. The Wireline Competition Bureau was authorized to retain a technical advisor to assist in resolving disputes.³⁷

³⁴ See “*Commission Releases Sources Sought Announcement Seeking Contractor to Build and Operate Centralized Database for Internet Based Telecommunications Relay Service Numbering System*,” Public Notice, CG Docket No. 03-123, WC Docket No. 05-196, DA 08-1483, rel. June 25, 2008.

³⁵ See “*Commission Releases Request for Quotation for Contractor to Build and Operate Centralized Database for Internet Based Telecommunications Relay Service Numbering System*,” Public Notice, CG Docket No. 03-123, WC Docket No. 05-196, DA 08-1788, rel. June 29, 2008.

³⁶ See *September 2008 Public Notice*.


³⁷ See *June 2008 TRS Order* at 11628.

VI. Conclusion

For these reasons, the Commission should adopt and implement Emerios's recommended two-phase solution to determine and verify Lifeline/Link Up eligibility and identify and resolve duplicate claims for support, thereby reducing waste, fraud and abuse in the Lifeline/Link Up program.

Respectfully submitted,

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